

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

STATE OF WEST VIRGINIA,

Plaintiff,

v.

**CIVIL NO. 1:24-CV-26
(KLEEH)**

EMMANUEL JONES,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 17]
AND REMANDING ACTION**

On March 5, 2024, pro se Defendant Emmanuel Jones ("Defendant") filed a "Removal of West Virginia State Case to the District Court of the United States for the Northern District of West Virginia" [ECF No. 1]. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Alois (the "Magistrate Judge") [ECF No. 6]. On May 1, 2024, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the claims without prejudice; that Plaintiff's motion to dismiss [ECF No. 10] be granted; that Defendant's motions to proceed *in forma pauperis* [ECF Nos. 4,5] be denied; and that the Court remand the action to state court. ECF No. 17.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and

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Recommendation to which objection is made, and the basis for such objection." ECF No. 17. It further warned them that the "[f]ailure to timely file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Id. Defendant accepted service of the R&R on May 7, 2024. ECF No. 19. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 17]. Plaintiff's Motion to Dismiss and Motion for Remand is **GRANTED** [ECF No. 10]

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and the claims are **DISMISSED WITHOUT PREJUDICE**. Defendant's motions to proceed *in forma pauperis* [ECF Nos. 4,5] are also **DENIED**. This action is **REMANDED** to state court for lack of subject matter jurisdiction and shall be **STRICKEN** from the Court's active docket. Any other pending motions in this action shall be **TERMINATED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record; the Circuit Clerk of Monongalia County, West Virginia; and the pro se Defendant by certified mail, return receipt requested.

DATED: May 24, 2024

Tom S Klee

THOMAS S. KLEEH, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA